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May 2, 1985

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The Honorable Paul A. Magnuson  
United States District Judge  
for the District of Minnesota  
754 Federal Building  
316 North Robert Street  
St. Paul, Minnesota 55101

Re: United States of America, et al v. Reilly  
Tar & Chemical Corporation, et al, Civil No.  
4-80-469, and Reilly Tar & Chemical Corporation  
v. United States of America, et al, Civil  
No. 3-85-473

Dear Judge Magnuson:

I am in receipt of Mr. Donald Hornstein's letter to you of April 26, 1985, in which Mr. Hornstein asks, on behalf of the United States, for "clarification" or the "opportunity for further briefing" regarding part of your Memorandum Order of April 5, 1985.

I must say that I find Mr. Hornstein's request somewhat curious, to say the least. The Court's memorandum opinion to which he refers was issued with respect to Reilly's recent motion for a preliminary injunction. The Court ruled in favor of the United States and denied Reilly's motion. The United States, although apparently dissatisfied with some of this Court's reasoning, is certainly not asking the Court to reconsider its order denying the injunction. Nor has Reilly. Accordingly, there is no matter currently pending before the Court on which any further briefing is required.

As for clarification, it seems to me that this Court's language to which Mr. Hornstein objects is quite clear. The United States is simply trying again to avoid the consequences of its decision to come into this court.

10-7-1-21

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4 1/2 years ago seeking a mandatory injunction against Reilly before it had decided what the remedy should be. Indeed, it still has not done so, and is presently trying to conduct remedial investigation/feasibility studies right up to and maybe beyond the time of trial.

In short, it appears to me that the appropriate course is for this Court to acknowledge receipt of the United State's editorial comments but to leave it with the victory it has achieved.

Respectfully yours,



Michael J. Wahoske

MJW/kmh

cc: Donald T. Hornstein, Esq.  
All Counsel of Record